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9 **IN THE UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
10 **OAKLAND DIVISION**

11 ELOY ORTIZ OAKLEY, *et al.*,

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13 Plaintiffs,

14 v.

15 BETSY DEVOS, *et al.*,

16 Defendants.  
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Case No. 4:20-cv-3215-YGR

**STIPULATION AND [PROPOSED]  
ORDER TO SET CASE SCHEDULE  
AND VACATE INITIAL CASE  
MANAGEMENT CONFERENCE**

Pursuant to the Court’s Order of July 16, 2020, ECF No. 47, and Civil Local Rule 16-2(d) and (e), Plaintiffs and Defendants submit this stipulated request for the Court to enter their proposed case management schedule and to vacate the Initial Case Management Conference. In support of this request, the parties stipulate and agree as follows:

1. On May 11, 2020, Plaintiffs filed a Complaint for Declaratory, Injunctive, and Mandamus Relief in this Court based on Defendants’ alleged imposition of student eligibility requirements for Higher Education Emergency Relief Fund disbursements under the CARES Act and based on agency actions taken on or around April 21, 2020. ECF No. 1.

2. On May 13, 2020, Plaintiffs filed a Motion for Preliminary Injunction (“PI Motion”). ECF No. 16.

3. On May 13, 2020, the Court entered an Order Setting Initial Case Management Conference and ADR Deadlines. ECF No. 8. Pursuant to that Order, an Initial Case Management Conference (“CMC”) has been scheduled for August 10, 2020.

4. On June 11, 2020, Defendants filed with the Court an Interim Final Rule (“IFR”) addressing the student eligibility requirements challenged in Plaintiffs’ Complaint and PI Motion. The Department of Education published an official copy of this IFR on June 16, 2020, setting the deadline for public comments on the IFR as July 17, 2020.

5. On June 17, 2020, the Court entered an Order Granting Plaintiffs’ Motion for Preliminary Injunction. ECF No. 44.

6. On July 13, 2020, the parties filed a Stipulation to Extend Deadline to Respond to Complaint and Submit Stipulated Case Management Schedule. ECF No. 46. The parties stated that they had conferred regarding further proceedings in this case and anticipated that through additional meet and confer efforts they would reach agreement on a schedule for further

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proceedings. The parties therefore requested that they be permitted to file on August 3, 2020, either a stipulated proposed case management order or a joint CMC statement, including a statement on whether there is a need to keep the CMC scheduled for August 10, 2020 on calendar. The parties further agreed that the case was unlikely to be resolved on a voluntary basis, and requested that the case be exempted from the ADR Multi-Option Program.

7. On July 16, 2020, the Court approved the parties' Stipulation. ECF No. 47. It entered an Order requiring the parties to meet and confer regarding a schedule for further proceedings; requiring the parties to file on August 3, 2020, either a stipulated proposed case management order or a joint CMC statement; and exempting the case from the ADR Multi-Option Program.

8. Consistent with the Courts' July 16, 2020 Order, the parties have conferred regarding a schedule for additional proceedings and whether there is a need to keep the August 10, 2020 CMC on calendar. The parties believe that upon production of the administrative record, any amendment of the Complaint, and Defendants' response, this case will be suitable for resolution on the basis of cross-motions for summary judgment. The parties thus respectfully request that the Court enter a case management order setting forth the following schedule:

- **September 23, 2020:** Defendants' deadline to produce the administrative record for the IFR
- **October 23, 2020:** Plaintiffs' deadline to file amended complaint, if any
- **November 23, 2020:** Defendants' deadline to respond to amended complaint (or original complaint, if no amendment)

- **December 4, 2020:** Deadline for parties to submit a joint proposed briefing schedule

9. Given their agreement on a proposed schedule for further proceedings, the parties respectfully submit that in the interest of judicial economy and efficiency, the Court need not hold a CMC on August 10, 2020, and respectfully request that the CMC be vacated.

DATED: July 30, 2020

Respectfully submitted,

ETHAN P. DAVIS  
Acting Assistant Attorney General  
MARCIA BERMAN  
Assistant Director, Federal Programs Branch

/s/ M. Andrew Zee  
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Deputy Attorneys General  
*Attorneys for Plaintiffs Eloy Ortiz Oakley  
and Board of Governors of the California  
Community Colleges*

**ATTESTATION**

Pursuant to Local Rule 5-1(i)(3), I attest that I am the ECF user whose user ID and password are being used in the electronic filing of this document, and further attest that I have obtained the concurrence in the filing of the document from the other signatory.

/s/ M. Andrew Zee

**[PROPOSED] ORDER**

Upon stipulation of the parties, and good cause appearing, IT IS ORDERED that:

1. The Initial Case Management Conference set for August 10, 2020 is VACATED.
2. The following schedule shall govern further proceedings in this case:
  - **September 23, 2020:** Defendants' deadline to produce the administrative record for the IFR
  - **October 23, 2020:** Plaintiffs' deadline to file amended complaint, if any
  - **November 23, 2020:** Defendants' deadline to respond to amended complaint (or original complaint, if no amendment)
  - **December 4, 2020:** Deadline for parties to submit a joint proposed briefing schedule

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2020

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YVONNE GONZALEZ ROGERS  
United States District Court Judge